REMARKS/ARGUMENTS

Claims 13 and 30-56 were examined on their merits while claims 57-82 have been added to the present application. Therefore, upon entry of this amendment, the claims 13 and 30-82 are currently pending in the present application.

Formal Matters

1.   Claim 13 is objected as containing informalities. Applicant has amended the claim as suggested by the Examiner and respectfully requests that the Examiner withdraw the objection.

Art Rejections

1.   Claims 13, 33-38, 40-43, 49-51, and 54 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gregorek et al., U.S. Patent No. 5,557,658 ("Gregorek"). Applicant notes that Examiner enumerated claims 13, 33-38, 40-43, 49-51, and 54 in his rejection, but additionally includes claims 30, 31, and 32 in his discussion. Applicant's response therefore addresses all the claims discussed by the Examiner, including claims 30, 31 and 32, in an effort to expedite the prosecution of the application. Specifically, claims 13 and 30 are both independent claims. Therefore, Applicant respectfully traverses this rejection for at least the reasons stated below.

To be an "anticipation" rejection under 35 U.S.C. § 102, the reference must teach every element and recitation of the Applicant's claims. Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus,

the reference must clearly and unequivocally disclose every element and recitation of the

claimed invention.

Independent Claim 13

Applicant submits that Gregorek fails to disclose at least the underlined recitation of

independent claim 13:

> a processing means configured to <u>selectively</u> <u>associate</u>, based on one or more factors selected from the group consisting of user preferences, language, communication source, communication type, time of day, communication destination, and geography, <u>at least one</u> <u>advertisement in the advertisement database with a</u> <u>destination of an incoming communication</u>

Gregorek is directed to a communications marketing system for selectively modifying a

communications network by replacing an audible or visual call progress signal generated by the

communications network. (See abstract and Col. 1, lines 14-20). Specifically, Gregorek teaches

transmitting generally continuous pre-recorded announcements to a network station which is

waiting to reconnect a call with another station (See Col. 4, lines 34-36). Therefore, upon

dialing a call, the caller hears one long, continuous advertisement its entirety until the called

telephone picks up. As such, Gregorek only teaches transmitting an announcement to the party

who placed the call or the source of the call. Gregorek does not disclose, teach or suggest

associating an advertisement with the destination of the incoming communication as recited in

independent claim 13. Because Gregorek only transmits the announcements to the source of a

call and not the destination of the call, Gregorek does not disclose each recitation of the claimed

subject matter and therefore cannot and does not anticipate independent claim 13.

Independent Claim 30

Applicant respectfully submits that Gregorek fails to disclose the following recitation of

independent claim 30:

> a user accessing a record containing the user's
> preferences from a database;
> providing said user with the option of changing or
> updating any or all preferences in the record;
> said user changing or updating some or all of the
> user's preferences

Unlike the claimed subject matter which allows a user to access and change his

associated preferences, Gregorek teaches a smart system wherein the systems learns preferences

by reapplying a user's previous menu selections. Specifically, Gregorek teaches a message

generator configured to provide menus based on the subscriber's previous menu selections (See

Col. 10, lines 63-65). As stated in Col. 19, lines 66 through Col. 20, line 3, "the software

contains software agents and filters which allows the software to learn (i.e. remember and act

upon) a subscribers previous menu selections and customize an individual subscriber menu based

upon the previous selections or other subscriber input. Thus, unlike the claimed subject matter,

Gregorek does not require direct subscriber interaction to provide a customized menu. Rather,

Gregorek "self-learns" according to previous subscriber menu selections.

In light of the above, Applicant respectfully submits that Gregorek fails to disclose, teach

or suggest each and every recitation of independent claims 13 and 30. Therefore, Applicant

submits that independent claims 13 and 30 are allowable over the prior art. Applicant further

submits that dependent claims 33-38, 40-43, 49-51, and 54 are also allowable over the prior art at least by virtue of their dependency.

4.   Claims 44-48, 52, and 53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gregorek et al., U.S. Patent No. 5,557,658 ("Gregorek") in view of Kung et al., U.S. Patent No. 6,373,817 ("Kung"). Claims 44-48 ultimately depend from independent claim 13 and claims 52 and 53 ultimately depend from independent claim 30. Gregorek is deficient with respect to independent claims 13 and 30 for at least the reasons stated above. Therefore, the Examiner must rely on Kung to compensate for the foregoing deficiencies.

Kung is drawn to a chase me system *(*See *e.g.,* Title*)*. More specifically, Kung describes in detail a method of routing Internet broadband communications between or among users without relation to their locations. Thus, Kung describes a method to chase called parties through a broadband Internet Protocol Telephony Network (IPTN) and a public switched telephone network. (See Col. 1, lines 8-15). Although Kung teaches the use of an announcement server to track the user's age, salary or other profile, Kung is not directed to advertising via a telecommunication system nor does Kung disclose, teach or suggest replacing ring tones with an advertisement. Therefore, Kung cannot and does not compensate for the deficiencies of Gregorek with respect to independent claims 13 and 30. Applicant therefore respectfully submits that claims 44-48, 52, and 53 are patentable at least by virtue of their dependency. The Examiner is therefore respectfully requested to withdraw the § 103(a) rejection from claims 44-48, 52, and 53.

5.   Claim 39, 55, and 56 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gregorek et al., U.S. Patent No. 5,557,658 ("Gregorek"). Claim 39 ultimately depends from independent claim 13 and claims 55 and 56 ultimately depend from independent claim 30. Because independent claims 13 and 30 are allowable over the art of record for at least the reasons discussed above, Applicant submits that claims 39, 55, and 56 are patentable at least by virtue of their dependency. The Examiner is therefore respectfully requested to withdraw the § 103(a) rejection from claims 39, 55, and 56.

New Claims

Claims 57-82 have been added to the present application. Applicant submits that the claims are fully supported by the specification. Additionally, Applicant submits that newly added independent claims 69 and 76 are distinguishable from Gregorek. Specifically, Gregorek teaches replacing the entire ringback signal, heard by the calling party only, with one long and continuous announcement. In fact, Gregorek explicitly states that the announcement is designed to "fill a 5-30 second time span." (See Col. 11, lines 18-25). Unlike Gregorek, claims 69 and 76 clearly recite replacing the ring tone of a ringback signal that is transmitted either to the source of the call or the destination of the call. As such, the claimed subject matter replaces an individual ring, or ringback tone, of a ringback signal with selected advertisements. In light of at least these differences, Applicant respectfully requests that the Examiner find the newly added claims allowable.

If any points remain in issue which the Examiner feels may be best resolved through a

personal or telephone interview, the Examiner is kindly requested to contact the undersigned at

the telephone number listed below. The Commissioner is directed and authorized to charge all

required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 50-2613.

Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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